

**SENATE JUDICIARY COMMITTEE AMENDMENT NO. 1 by Fowler**

**AMENDMENT NO.** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

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by deleting everything after the enacting clause and by substituting the following language:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding Sections 2 through 14 of this act as a new part:

SECTION 2. As used in this part unless the context otherwise requires:

(1) "Arrears" is defined as any child support or spousal support associated with a child support order owed under a court or administrative order which is delinquent pursuant to Tennessee Code Annotated 36-5-501(b)(1), or any interest owed on those arrears.

(2) "Commissioner" means the commissioner of human services.

(3) "Department" means the department of human services.

(4) "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance, but shall not include a license to practice law unless the Supreme Court establishes guidelines pursuant to Section 14 making the provisions of this act applicable to such license.

(5) "Licensee" means any individual holding a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance; such term shall not

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include an attorney only with respect to the attorney's license to practice law unless the Supreme Court establishes guidelines pursuant to Section 14 making the provisions of this act applicable to such license.

(6) "Licensing authority" means the board, commission, or agency, including the department of safety, which has been established by statute or state regulation to oversee the issuance and regulation of any license. Excluded from this definition is the Supreme Court, unless the Supreme Court acts in accordance with Section 14, and any licensing authority established solely by the action and authority of a county or municipal government.

(7) "Not in compliance with an order of support" means that the obligor is five hundred dollars (\$500) or more in arrears and the arrears are ninety (90) days or more past due.

(8) "Obligee" means any individual to whom a duty of support is owed or any state or political subdivision to whom such duty has been assigned or which is collecting support on behalf of an obligee.

(9) "Obligor" means any individual owing a duty of support.

(10) "Order of support" means any judgment or order for the support of dependent children issued by any court of this state or another state, including an order in a final decree of divorce, or any order issued in accordance with an administrative

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procedure established by state law in this or another state that affords substantial due process and is subject to judicial review.

**SECTION 3.**

(a) In Title IV-D child support cases, or where an obligee has made an application with the department or its contractors for Title IV-D child support services and has filed an affidavit stating that the obligor is not in compliance with an order of support as defined in this part, the department may serve upon the obligor a notice that informs the obligor of the department's intention to submit the obligor's name to the appropriate licensing authority as a licensee who is not in compliance with an order of support.

(b) The notice shall state that:

(1) The obligor may request an administrative hearing to contest the issue of compliance or contact the department to make an arrangement for the payment of the arrears which is satisfactory to the department.

(2) A request for a hearing must be made in writing and must be received by the department within twenty (20) days of service, or within twenty (20) days of service the obligor must contact the department or the local IV-D agency and pay the arrears or make an arrangement with the department for the payment of the arrears which is satisfactory to the department.

(3) If the obligor requests a hearing within twenty (20) days of service the department shall stay the proceedings to certify the obligor to any appropriate

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licensing authority for noncompliance with an order of support pending a decision after a hearing. If the obligor contacts the department to make an arrangement for the payment of the arrears which is satisfactory to the department within such twenty (20) days, the department shall stay the proceedings to certify the obligor to any appropriate licensing authority for noncompliance with an order of support in accordance with the agreement entered into between the obligor and the department as provided in Section 4(d).

(4) The proceedings will be dismissed if the obligor pays the arrears.

(5) If the obligor is not in compliance with an order of support and does not either request a hearing or make a satisfactory arrangement for payment with the department within twenty (20) days of service, the department may certify the obligor to any appropriate licensing authority for noncompliance with a court order of support.

(6) If the department certifies the obligor to a licensing authority for noncompliance with an order of support, the licensing authority, notwithstanding any other provision of law to the contrary, must deny a renewal request, revoke the obligor's license, or refuse to issue or reinstate a license, as the case may be, until the obligor provides the licensing authority with a release from the department that states the obligor is in compliance with the obligor's order of support.

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(c) The notice to the obligor shall include the address and telephone number of the office of the department or its contractor that issues the notice and a statement of the need to obtain a release from that office as provided in Section 8 in order to allow the obligor's license to be issued, renewed or reinstated. The notice shall be served by certified mail, return receipt requested, or by personal service with an affidavit of service completed by an authorized representative of the commissioner. Service shall be deemed complete upon mailing or, if done by personal service, upon receipt.

**SECTION 4.**

(a) An obligor may request an administrative hearing upon receiving the notice described in Section 3 to contest the department's intention to issue a finding of non-compliance to a licensing authority. The request for hearing must be made in writing and must be received by the department within twenty (20) days of the date the notice is issued.

(b) If a hearing is requested, the department shall conduct the hearing in accordance with the provisions of § 4-5-301 et seq.; provided, however, notwithstanding any law or rule to the contrary, the sworn certificate of the department, or its agent, or the Title IV-D agency of another state regarding the issues in subsection (c)(1) and (2) shall be admissible in evidence and shall constitute a rebuttable presumption of the obligor's status.

(c) The only issues for consideration at the administrative hearing shall be:

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(1) Whether the licensee is an obligor required to pay child support under an order of support; and

(2) Whether the obligor is not in compliance with the order of support.

(d) The department may enter into an agreement with the obligor, satisfactory to the department, for the payment of an arrearage which agreement shall be in writing and signed by the obligor. Upon execution of such agreement, the proceedings under this act shall be stayed. Such agreement shall constitute a waiver of the obligor's right to any hearing on the issue of noncompliance with an order of support. Upon a determination by the department that the obligor has not complied with such agreement, then in accordance with Section 8, the department shall forthwith certify to each licensing authority which licenses the obligor that the obligor is not in compliance with an order of support.

**SECTION 5.**

(a) If an obligor timely requests a hearing to contest the issue of compliance, or files a motion to modify support or requests that the support obligation be amended as provided in Section 11, the department shall stay the action and may not certify the name of the obligor to any licensing authority for noncompliance with an order of support until the department issues a written decision after a hearing that finds the obligor is not in compliance with an order of support or until the motion to modify or request to amend is decided, as the case may be; provided, however, that after a decision by the

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department has been made in the form of a final order as provided in § 4-5-315, there will be no further stay unless a reviewing court issues a stay.

(b) The department shall issue its decision after hearing without undue delay.

The decision must inform the obligor that in accordance with Section 4-5-301 et seq. the obligor may file a petition for judicial review of the decision within thirty (30) days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record and to any attorney representing the obligor in connection with the hearing under this act.

(c) Notwithstanding any law to the contrary, the department is authorized to assess costs to the obligor of the unsuccessful appeal of notice of noncompliance. The department may, by motion in the court with jurisdiction over the support order, recover such costs against the obligor and the court shall direct the obligor to pay such costs to the department.

SECTION 6. (a) The department shall certify in writing or by electronic data exchange to each licensing authority which licenses the obligor that an obligor is not in compliance with an order of support if:

(1) The obligor does not timely request a hearing upon service of notice issued under Section 3 and is not in compliance with an order of support twenty-one (21) days after service of the notice provided for in Section 3;

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(2) The obligor has not entered into a written agreement satisfactory to the department for payment of the arrearage within twenty (20) days after service of the notice in Section 3 or within such longer period as may be agreed to by the department, or having entered into such a written agreement has failed to comply with such agreement;

(3) The department issues a decision after a hearing that finds the obligor is not in compliance with an order of support; or

(4) A court, upon a petition for judicial review of the department's decision after its issuance of a stay of that decision pending its ruling, enters a judgment that upholds the department's finding that the obligor is not in compliance with an order of support;

**SECTION 7.**

(a) Notwithstanding any other law, rule or regulation to the contrary, the certification from the department under Section 6 shall be, a basis for the denial, suspension or revocation of a license, or for refusal to issue or reinstate a license by a licensing authority.

(b) The licensing authority shall notify, without undue delay, by regular mail, an obligor certified from the department under Section 6, that the obligor's application for the issuance, renewal or reinstatement of a license has been denied or that the obligor's current license has been suspended or revoked because the obligor's name has been



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certified by the department as an obligor who is not in compliance with an order of support.

(c) A notice of suspension must specify the reason and statutory grounds for the suspension and the effective date of the suspension and may include any other notices prescribed by the licensing authority. The notice must also inform the individual that in order to apply for issuance, renewal or reinstatement of the license, the individual must obtain a release from the department of human services in accordance with Section 8.

(d) A notice to the obligor by the licensing authority to revoke, deny, suspend, or refuse to renew or reinstate a license after receipt of the notice of noncompliance from the department shall not be appealable under § 4-5-301 et seq.

**SECTION 8.**

(a) When an obligor who is served notice under Section 3 complies with the order of support, the department shall provide the licensing authority with written or electronic data exchange confirmation that the obligor is in compliance with the order and issue a release to the obligor.

(b) Upon receipt of the written confirmation of compliance or electronic data exchange from the department confirming compliance with the order of support, the licensing authority shall issue the obligor's license or renew or reinstate the obligor's license; provided, that all other applicable licensing requirements are met by the obligor.

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The licensing authority issuing, renewing or reinstating the license may charge a fee for such action in an amount to be determined by the licensing authority.

SECTION 9. The department shall have authority to adopt any necessary rules to implement and enforce the requirements of this act in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 10. The various licensing authorities shall cooperate with the department in any manner necessary to effectuate this act, and the department and the various licensing authorities shall enter into any necessary agreements to carry out the purposes of this act.

SECTION 11. Nothing in this act prohibits an obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision.

SECTION 12. On or before January 1, 1996, or as soon thereafter as economically feasible and at least annually thereafter, all licensing authorities subject to this act shall provide to the department on magnetic tape or other machine-readable format the information herein specified or enter into an agreement with the commissioner of human services for the transfer of or the access of the department to such data, according to standards established by the department, about applicants for licensure and all current licensees including licensees whose licenses are currently suspended or revoked but are subject to reinstatement upon the occurrence of an event or expiration of a period of time. The information provided must include, if available, the following:

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- (1) Name;
- (2) Date of birth;
- (3) Address of record;
- (4) Federal employer identification number or social security number;
- (5) Physical description;
- (6) Type of license;
- (7) Effective date of license or renewal
- (8) Expiration date of license; and
- (9) Active or inactive status of the license.

SECTION 13. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the general assembly and the governor on January 31, 1997, and annually thereafter:

- (1) The number of obligors identified as licensees subject to this act;
- (2) The number of obligors identified by the department under this act who are not in compliance with an order of support; and
- (3) The number of actions taken by the department under this act and the results of those actions.

**SECTION 14.**

(a) In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by law, rule or regulation issued

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under the provisions of Tennessee Code Annotated, Titles 43, 44, 45, 55, 56, 62, 63, 68, 70 or 71, for an individual to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance, applicants for licensure, certification or registration, and licensees renewing their licenses, and existing licensees, must not then be subject to a certification that the licensee is not in compliance with an order of support.

(b) The Supreme Court is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with the requirements of Sections 2 through 9 of this act.

SECTION 15. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 1996, the public welfare requiring it.

This amendment rewrites the printed bill and would authorize the department of human services to report the names of Title IV-D child support obligors to the appropriate licensing authority that such authority's licensee is not in compliance with an order of support and, upon proper notice and affidavit, initiate the revocation of such license. The obligor may request an administrative hearing under the provisions of the

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amendment. The amendment also sets out recordkeeping procedures, reinstatement policies, and reporting requirements.